

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ANDREW LANCASTER, JEFFERY MILLS,
DEXTER WILLIAMS, WILLIAM DENNIS,
STEVE LIVADITIS, JIMMY VAN PELT,
H. LEE HEISHMAN III AND JOHNATON
GEORGE,

Plaintiffs,

v.

JAMES E. TILTON, Acting Secretary,
California Department of Corrections and
Rehabilitation, and ROBERT L. AYERS, JR.,
Acting Warden, San Quentin State Prison,

Defendants.

No. C 79-01630 WHA

**ORDER RE LETTER RE
BARNETT**

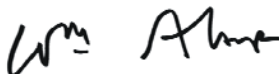
The Court has received a letter from Attorney Jennifer M. Corey, who is representing Inmate Lee Max Barnett in a habeas matter. That is background, however, and the letter raises an issue concerning inmate reclassification and claims that the warden misused an order issued herein earlier to reclassify Inmate Barnett, who has gone on a hunger strike in protest. The letter indicates that it has been sent to counsel of record. The attorney writing this letter is not counsel of record and does not represent the class. There has been no motion to intervene by Inmate Barnett. Any relief to be sought on behalf of Inmate Barnett, therefore, must be brought by plaintiff's counsel of record on behalf of a class member, namely by the Prison Law Office. Alternatively, Inmate Barnett may seek to intervene as a party and seek to be represented by

1 Attorney Corey. Neither of these alternatives has been attempted, resulting in a procedural
2 lapse. To the extent the letter is intended as a motion, it must be denied. Be aware that a letter
3 is not a proper form of motion.

4 The Court does not intend to take any further action with respect to Inmate Barnett until
5 a proper motion has been made, as indicated above, and until both sides have had an
6 opportunity for a hearing. If Attorney Corey believes time is of the essence and there is a true
7 emergency and she files a motion to intervene, the Court would entertain a motion to shorten
8 time so the matter could be heard on an expedited basis. The Court requests that counsel for
9 defendants speak with Attorney Corey to see if this problem can be resolved informally. This
10 step, however, is not a prerequisite to Inmate Barnett's seeking to intervene in a proper manner
11 should Attorney Corey deem it necessary.

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13 **IT IS SO ORDERED.**

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15 Dated: September 12, 2007.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE